

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**THOMAS C. WELLER, JR.,**

**Plaintiff,**

**v.**

**VAN P. FINGER,**

**Defendant.**

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**Civil Action No. 08-00240-CG-C**

**ORDER**

This matter is before the court on defendant's Rule 58(e) Motion for Order that Pending Request for Attorneys' Fees Have Same Effect as Rule 59 Motion Upon Time for Appeal (Doc. 183) and defendant's Motion for Reconsideration of Order Releasing Funds. Etc. (Doc. 182).

Having considered the motions and the premises therefore, they are **GRANTED**, to the extent that the court's previous Order (Doc. 181) releasing the funds deposited with the court is **AMENDED** to permit the release of only \$100,000.00 of those funds, with accrued interest, to plaintiff. The other \$300,000.00 is to be retained in an interest bearing account pending resolution of any appeal.

In addition, the court **ORDERS** that pursuant to Rule 58(e), F. R. Civ. P., the pending request for attorneys' fees shall have the same effect, under F.R.A.P. 4(a)(4), as a timely motion under Rule 59, F. R. Civ. P.

**DONE and ORDERED** this 5<sup>th</sup> day of April, 2010.

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/s/ Callie V. S. Granade  
UNITED STATES DISTRICT JUDGE